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Be it enacted by the Legislature of the State of Minnesota :

Amendment to the
charter of the city
of Red Wing

SECTION 1. That an act entitled an act to amend an act entitled an act to incorporate the city of Red Wing, in the county of Goodhue, approved March 4, 1857, be, and the same is hereby amended to read as follows :

CHAPTER I.

SECTION 1. All that part of the county of Goodhue,

contained within the limits and boundaries hereinafter described, shall be a city by the name of Red Wing, and the people now inhabiting, and those who shall hereafter inhabit within the district of country herein described, shall be a municipal corporation, by the name of the city of Red Wing, and shall have the general powers possessed by municipal corporations at common law; and, in addition thereto, shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, pleading and being impleaded, in all courts of law and equity; and shall have a common seal, and may change and alter the same at pleasure.

Incorporation of
the city of Red
Wing

SEC. 2. That the territory included within the following boundaries and limits shall constitute the city of Red Wing: Beginning at a point where the north line of section number twenty-five, in township number one hundred and thirteen north, of range number fifteen west, intersects with the Mississippi river; running thence west along said line to the northwest corner of said section, number twenty-five; thence south, to the southeast corner of section number thirty-six of said township and range; thence east, to the southeast corner of section number thirty-three, in township number one hundred and thirteen north, of range number fourteen, west; thence north to the centre of the main channel of the Mississippi river; thence up the centre of the main channel of said river, to a point due east of the place of beginning; thence west, to the place of beginning. *Provided*, That nothing herein contained shall be deemed to exclude any portion of the city of Red Wing from the limits of Goodhue county.

Boundary lines of
the city of Red
Wing

CHAPTER II.

SECTION 1. The annual election of city officers shall be held on the first Tuesday of April, in each year, at such place within the city as the city council shall designate, and shall be conducted and governed in all respects in accordance with the general laws of this State governing elections, except as hereinafter provided;

When election to
be held—notice to
be given

and notice of such elections shall be given by the city recorder, in the same manner as notices of general elections are required by law to be given by county auditors.

Who to be elective
officers—term of
office

SEC. 2. The elective officers of said city shall be a mayor, recorder, three councilmen, two justices of the peace, two constables, one of whom shall be designated by the city council as city marshal, a city attorney, an assessor and treasurer. All other officers necessary for the proper management of the affairs of said city, shall be appointed by the city council. The mayor, recorder, city attorney, assessor and treasurer, shall each hold their offices for one year, and until their successors are elected and qualified. The justices of the peace and constables shall hold their offices for two years, and until their successors are elected and qualified; and the councilmen shall hold their offices for three years, and until their successors are elected and qualified; *Provided*, That the justices of the peace and constables elected at the first election after the passage of this act, shall be divided by lot into two classes. The first of which shall go out of office at the end of one year, and thereafter one justice of the peace and one constable shall be elected at the annual election in each year; *and provided further*, That the councilmen elected at the first annual election after the passage of this act, shall be divided by lot into three classes. The first of which shall go out of office at the end of one year; the second at the end of two years; and at each annual election thereafter, one councilman shall be elected; *and provided further*, That the city council shall have power, for due cause, to expel any of their own members, and to remove from office at pleasure, any officer or agent under the city government, due notice first being given to the officer complained of.

Vacancies how
filled

SEC. 3. Whenever a vacancy shall occur in the office of mayor, such vacancy shall be filled by a new election, which shall be ordered and held within twelve days after such vacancy shall occur. Any vacancy occurring in any other office, shall be filled by the city council. The person elected or appointed to fill a vacancy, shall hold his office and discharge the duties thereof, with the same rights, and subject to the same

liabilities as the person whose office he may be elected or appointed to fill, until the next annual election, when the vacancy shall be filled by the electors.

SEC. 4. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. Whenever two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the city council, at such time and in such manner as they may direct.

Election to be by ballot—what to constitute an election

SEC. 5. All persons entitled to vote for county and State officers, and who shall have resided in the city for four months next preceding the election, shall be entitled to vote for any officer to be elected under this law, and to hold any office hereby created. *Provided*, That no person shall be eligible to the offices of mayor, councilman or recorder, who has not resided in said city for the period of one year next preceding the election.

Who entitled to vote—qualifications for office

SEC. 6. The election in said city shall be held and conducted by the city councilmen or any two of them, who shall be inspectors of election, and who shall take the oath or affirmation prescribed by the general laws of this State, to be taken by the judges and inspectors of elections; and the recorder, or in his absence, some person to be appointed by the inspectors shall be clerk, and the inspectors shall have power to appoint an assistant clerk. The inspectors shall have power, in the absence of the recorder, to appoint a clerk, and to administer the necessary oath. Said election shall be held, and conducted in the same manner, and under the same penalties, and vacancies in the board of inspectors thereof, filled as required by the general laws of this State, regarding elections.

How elections to be conducted

SEC. 7. When an election shall be closed, and the number of votes for each candidate or person voted for, counted and ascertained, the said inspectors shall make return thereof, stating the number of votes for each person, for each and every office, and shall deliver, or cause to be delivered, such return to the city recorder, who shall, within three days, give notice to each of the parties so elected, of their respective elections.

Duties of inspectors of election

SEC. 8. Special elections to fill vacancies, or for

How special elections to be conducted

any other purpose, shall be held and conducted by the councilmen, in the same manner, and the returns thereof shall be made in the same form and manner, as general or annual elections, and within such time as may be prescribed by ordinance.

When office deemed to be vacated

SEC. 9. Any officer removing from this city, or any officer who shall neglect or refuse, for ten days after notice of his election or appointment, to qualify or enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the city council may proceed to fill such vacancy, as herein prescribed or provided, by ordinance, not in conflict with the provisions hereof.

When new election may be ordered

SEC. 10. Should there be a failure by the people to elect any officer herein required to be elected, on the day designated, the city council may order a new election to be held; ten days' notice of the time and place of holding the same to be given, as in general elections.

CHAPTER III.

Persons elected to, office to give bond

SECTION. 1. Every person elected or appointed to any office under this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officers taking the same, with the recorder of the city; and the treasurer, and such other officers as the city council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Red Wing, a bond with at least two sureties, to be approved by the city council, and such bonds shall contain such conditions as the city council may deem proper; and they may, from time to time, require new or additional bonds, and remove from office any officer refusing or neglecting to give the same.

Who to preside over city council special meetings

SEC. 2. The mayor shall, when present, preside over the meetings of the city council, and take care that the laws of the State, and ordinances of the city be strictly enforced and duly observed, and that all other executive officers of the city discharge their respective duties. The mayor or any two councilmen may call special meetings of the city council. He shall

inspect the conduct of all subordinate officers, and cause negligence and persistent violations of duty to be prosecuted and punished, and may require of any officer of the city, whenever he may deem it necessary, an exhibit of his books and papers. He shall, from time to time, communicate to the city council, and recommend such measures as he may deem advantageous to the city. He shall have power to execute all acts that may be required of him, by any ordinance made in pursuance of this act, and is hereby authorized to call upon every male inhabitant of said city, over the age of eighteen years, to aid in enforcing the laws and ordinances, and in case of riot to call out the militia to aid him in suppressing the same, or carrying into effect any law or ordinance. Any person who shall not obey such call, shall forfeit to said city a fine not exceeding twenty-five dollars, and not less than five dollars.

SEC. 3. In case the mayor shall be guilty of any willful oppression, or corrupt partiality in the discharge of the duties of his office, he shall be liable to indictment, and, on conviction, shall pay a fine of not more than five hundred dollars, and the court shall have power (upon the recommendation of the jury in the cause,) to add to the judgment for the fine, that he be removed from office.

SEC. 4. In case the mayor shall be absent from any meeting of the city council, they shall proceed to elect, of their own number, a temporary presiding officer, who, for the time being, shall discharge all the duties of the mayor. In case of the absence of the mayor from the city, or his inability from any reason, to discharge the duties of his office, the council shall elect by ballot, from their own number, an officer who shall be styled acting mayor, and all actions performed by him shall have the same force and validity as if performed by the Mayor.

SEC. 5. The recorder shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the city council. He shall draw and countersign all orders on the treasurer, in pursuance of any order or resolution of the city council, and keep a full and accurate account thereof,

in books provided for that purpose, and make a fair and full record of all the by-laws, rules or ordinances made or passed by said city council. The recorder shall have power to administer oaths or affirmations, and copies of all papers filed in his office, and transcripts from the records of the city council, certified to by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall report annually, on or about the first day of May, to the council, an estimate of the expenses of the city for the current year, and the revenue necessary to be raised therefor, and the fiscal year of the city shall commence on the first day of May. He shall make, or cause to be made, estimates of the expenses of any work to be done by the city, and countersign all contracts made in behalf of the city, and all certificates of work, by any officer of the city or any committee of the city council. He shall negotiate between the first of May, and the collection of taxes for the same year, such temporary loans for the city as the city council shall direct, anticipating the revenue for the current year, and such loans shall be subject to the approval of the city council. He shall examine the report, books, papers, vouchers and accounts of the treasurer, and from time to time shall perform such other duties as the council shall direct. All claims against the city, before they are allowed by the city council, shall be audited and adjudged by the mayor. The recorder shall keep a record of all his acts and doings, which record shall be at all times open to the inspection of all parties interested. He shall not be directly or indirectly interested in any contract or job to which the city is a party, or in any loan negotiated by the city.

Duties of recorder

Duties of city attorney

SEC. 6. The city attorney shall perform all professional duties incident to his office, and when requested, shall furnish written opinions upon any subject submitted to him by the city council, its committees or the mayor.

Duties of treasurer

SEC. 7. The treasurer shall receive all moneys belonging to the city, keep an accurate and detailed account thereof, in such manner as the city council shall, from time to time, direct. The treasurer shall exhibit

to the city council, at least fifteen days before the annual election, or sooner if required by them, a full and detailed account of all the receipts and expenditures, after the date of the last annual report, and also the state of the treasury, which account shall be filed with the recorder.

SEC. 8. The marshal shall execute such orders as are made and prescribed by the city council, for the collection of tolls, license money, and fines, for the preservation of the public peace, for the good order, cleanliness, and government of the city, and for all other purposes. He shall possess the powers of a constable at common law, and under the statutes of the State, and receive like fees.

Duties of marshal

SEC. 9. The city council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them; *Provided*, Said mayor and councilmen shall not be entitled to pay, nor in any manner be paid for services rendered or duties performed as such mayor and councilmen; *And Provided further*, That the compensation paid to the city recorder, in any one year, shall not exceed one hundred dollars. The assessor, treasurer, justices of the peace, and constables shall be entitled to the same fees as like officers in towns receive for similar services, under the laws of this State. And the city attorney shall receive no more than the services rendered by him shall be reasonably worth, and that the aggregate amount of all fees, compensations, and emoluments, allowed or paid to any and all officers and committees, by the city, and the gross amount of all expenses incurred by said city, shall not exceed, in any year, the tax levied during that year for the support and maintenance of the said city government.

Further powers of city council

SEC. 10. Any person having been an officer in said city, shall, within ten days after notification and request, deliver to his successor in office, all property, papers, books, and effects of every description in his possession, belonging to said city, or pertaining to the

Penalty for non-compliance with the provisions of this section

office he may have held. If he fail so to do, after such notification and request, he shall forfeit and pay to the use of the city one hundred dollars, beside all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects, in the manner prescribed by the laws of this State, in cases of unlawful detention of property.

Who may not be interested in contracts

SEC. 11. No member of the city council shall be party to, or interested in any job or contract with the city, and a contract in which any member of the city council may be interested, shall be null and void.

Suppression of disorderly behavior

SEC. 12. The mayor, sheriff of Goodhue county, each and every councilman, justice of the peace, marshal, and recorder and constables shall be officers of the peace, and may command the peace, and suppress in a summary manner, all rioting and disorderly behavior within the limits of the city; and for said purpose may command the assistance of all by-standers, and if any person so commanded, shall refuse to aid in maintaining the peace, every such person shall pay a fine of twenty-five dollars.

Jurisdiction of justices of the peace

SEC. 13. The justices of the peace, assessors, and constables of said city shall have and possess all the authorities, rights and powers of justices of the peace, assessors and constables, under the general laws of this State; and in addition thereto, the justices of the peace for said city, shall have sole and exclusive jurisdiction to hear all complaints, and conduct all examinations and trials, in criminal cases arising within the city, cognizable before a justice of the peace in which the city is a party, and of all suits, prosecutions and proceedings for the recovery of any fine, forfeiture or penalty, under any by-law, ordinance or regulation. All prosecutions for assaults, batteries and affrays, not indictable, and for a breach or violation of any by-law, ordinance or regulation of said city, shall be commenced in the name of the city of Red Wing, and the same proceedings shall be had as are required by law in criminal cases tried before justices of the peace; *Provided*, That in the cases above mentioned, no appeal shall be allowed when the judgment or fine imposed, exclusive of costs, shall

not exceed twenty dollars. In all cases of convictions for assaults, batteries, and affrays, breaches of the peace, disorderly conduct, keeping houses of ill-fame or frequenting the same, and of keeping disorderly houses in said city, the said justices of the peace shall have power, in addition to the fine or penalty imposed, to compel such offenders to give security for their good behavior, and to keep the peace for a period not exceeding six months, and in a sum not exceeding five hundred dollars; *Provided*, That nothing herein contained, shall be deemed to divest the district judges of their authority as conservators of the public peace, nor to affect in any manner the jurisdiction or powers of the district or supreme courts of this State.

SEC. 14. The justices of the peace shall quarterly report to the city council a list of all proceedings instituted before them, in behalf of the city, and the disposition thereof; and shall, at the same time, account and pay over the amount of all penalties and cost collected, which may by law accrue to the city, and they shall be entitled to receive from the county of Goodhue such fees in criminal cases, prosecuted in the name of the State of Minnesota, as are allowed to other justices of the county, for similar services.

When to report to city council—what to contain

SEC. 15. All surveys, profiles, plans or estimates made for the city, shall be the property of the city, and shall be carefully preserved in the office of the recorder, open to the inspection of the parties interested.

All surveys, etc., to be property of the city

CHAPTER IV.

SECTION 1. The mayor, councilmen, and recorder, shall constitute the council, and the style of all ordinances shall be "The City Council of the City of Red Wing do ordain." The city council shall meet at such time and place as they shall direct, and a majority shall constitute a quorum. The city council shall determine the rules of its proceedings, and be the judges of the election and qualification of their own members, and have the power to compel the attendance of absent members.

Style of all ordinances—quorum

SEC. 2. The city council shall have the manage-

Who to have the
management of
finances

ment and control of the city finances, and of all the property of the city; and the city council shall likewise have full power and authority to make, enact, ordain, establish, publish enforce, alter, modify, correct and repeal, all such ordinances, rules and by-laws, for the government and good order of the city, for the suppression of vice, as they shall deem expedient; and declare and impose penalties by fine, imprisonment, or both, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules or by-laws; and such ordinances, rules and by-laws are hereby declared to be and have the force of law, and for these purposes shall have authority by ordinance, resolution or by-laws; *Provided*, That they be not repugnant to the Constitution and laws of the United States or of this State;

Powers of the
council

1st. To license and regulate the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses, or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances, under the ordinances or at common law, or under this act, and to grant licenses, and to regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous, fermented, mixed or intoxicating liquors; *Provided*, That the license for so dealing in spirituous, vinous, fermented, mixed, or intoxicating liquors, shall be at least fifty dollars a year, and as much higher as the council shall direct, and that no license shall be granted for a less term than one year; *and provided further*, That no license shall be issued until the money is first paid.

2d. To restrain and prohibit E. O. or Roulette tables, faro or pharo banks, and all gaming with cards, and all gambling tables, and to prohibit the use of all gambling devices whatever, from being set up or used for gambling purposes, and to restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and playing of cards, dice, and other games of chance, for the purpose of gaming in said city, and to restrain and prohibit any person from vending, giving or dealing in spirituous, vinous, fermented, mixed or intoxicating liquors of any kind, and impose such

restrictions or prohibitions by fine or imprisonment, or by both fine and imprisonment.

3d. To prevent any riots, noise, disturbance, disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill fame, and to authorize the destruction of all instruments used for the purpose of gaming, and of all spirituous, vinous, fermented, mixed or intoxicating liquors of any kind, that may be kept for sale, or dealt in contrary to any ordinance of the city.

4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, remove, or abate the same, from time to time, as often as may be deemed necessary for the health, comfort and convenience of the inhabitants of the city.

5th. To direct the location and management of slaughter houses and markets, in said city, and to regulate the sale, storage, keeping and conveying of gunpowder, and other combustible materials. Powers of the council

6th. To prevent the incumbering of streets, sidewalks, lanes or alleys, with carriages, carts, wagons, boxes, sleighs, fire-wood, lumber, or any other material or substance whatever.

7th. To prevent horse racing, immoderate riding or driving in the streets, and to regulate the places of bathing and swimming in the water, within the limits of said city.

8th. To restrain the running at large of cattle, horses, swine, sheep, poultry and geese, and to authorize the impounding, distraining and sale of the same.

9th. To prohibit the running at large of dogs, to impose fines upon their owners, and to authorize the destruction of the same, when at large contrary to the ordinances.

10th. To prevent any person from bringing, depositing, or having within the city, any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have the same upon his premises; or from any street, lane, or alley, if he shall have thrown or put the same in any

street, lane or alley, and, on default, to authorize the removal thereof by any competent officer, at the expense of such persons or person.

11th. To make and establish public pounds, pumps, wells, cisterns, and reservoirs, and to provide for the erection of water works, for the supply of water to the inhabitants, to erect lamps or other means whereby to light the city, to regulate and to license hacks, cabs, drays, carts and charges of hackmen, coachmen, draymen, and cartmen in this city.

12th. To establish and regulate boards of health, provide hospital and cemetery grounds, regulate the burial of the dead, and the returns of the bills of mortality, and to exempt burial grounds set apart for public use, from taxation.

13th. To regulate the assize and weight of bread and to provide for the seizure and forfeiture of bread baked contrary thereto.

14th. To prevent all persons riding or driving any ox, cow, horse or mule, or other animal, on the sidewalks of the city, or in any way doing any damage to such sidewalks.

15th. To prevent the shooting of firearms, crackers, rockets, or other projectiles, and to prevent the exhibition of any fire-works in any situation which may be deemed by the council dangerous to the city, or any property therein, or annoying to any citizens thereof.

16th. To restrain drunkards, in moderate drinking of intoxicating beverages, brawling and obscenity in the streets or public places, and to provide for arresting, removing and punishing any person who may be guilty of the same.

17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses, railroads, and other establishments, and to regulate the police of the city.

18th. To establish public markets, and to enforce rules and regulations for the government of the same.

19th. To regulate the place and manner of selling, and provide for the inspection and weight of hay, and stone coal, the measuring of charcoal, fire-wood, and other fuel, and appoint suitable persons to inspect, superintend, and conduct the same.

20th. To compel the owners and occupants of buildings or grounds to remove snow, dirt, or rubbish from the sidewalks, streets or alleys opposite thereto, and on his default, to authorize the removal or destruction thereof, by some officer of the city, at the expense of such owner or occupant.

21st. To regulate the construction of wharves, or grading such wharves into the river, within the corporate limits of the city, and to prescribe and control the prices for wharfage thereon.

22nd. To regulate, control, and prevent the landing of persons from boats or vessels, wherein are contagious or infectious diseases or disorders, and to make other regulations, as they shall deem proper, to prevent the introduction of contagious diseases into the city; to prevent the bringing of paupers into said city, and to remove them to the place where they properly belong.

23d. To regulate the time, place and manner of ^{Powers of the} holding public auctions or vendues. _{council}

24th. To provide by ordinance for a standard of weights and measures, and for the punishment of the use of false weights and measures.

25th. To appropriate money and provide for the payment of the debts and expenses of the city.

26th. To alter, abolish, open, widen, extend, establish, grade, repair, or otherwise improve, or keep in repair, streets, avenues, lanes and alleys.

27th. To establish, support, and regulate night watches.

28th. To provide for the erection of all needful buildings for the use of the city.

29th. To provide for the enclosing, improving and regulating of all public grounds belonging to the city, and for the adorning the streets thereof, with shade trees.

30th. To regulate and tax merchants, retailers, taverns, groceries, ordinaries, hawkers, pawnbrokers, and money changers.

31st. To license and regulate porters, and fix the prices of portorage.

32d. To provide for and regulate the inspection of tobacco, beef, pork, flour, meal, butter and lard, and other provisions.

33d. To regulate and order parapet walls, and other partition fences.

34th. To provide for taking from time to time, the enumeration of the inhabitants of the city.

OF FIRES.

35th. To prescribe the limits within which wooden buildings, or buildings of other materials that shall not be deemed fire proof, shall not be erected, placed or repaired; and to direct that all and any buildings within the limits prescribed, shall be made and constructed of fire proof materials, and to prohibit the repairing and rebuilding of wooden buildings, within such limits, where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such value and damages.

Powers of the
council

36th. To prevent the dangerous construction, placing and condition of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers, and appurtenances used in and about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous, and to prevent the deposit of ashes in unsafe places, and to regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires within the city limits.

37th. The city council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due support and regulation of the same; and to order such companies to be disbanded and their apparatus delivered up. Each company shall not have to exceed seventy-five members, and shall be formed by voluntary enlistment, and each member of such company shall be exempt from poll tax, from serving on juries, and from military duty, during the continuance of such membership.

Sec. 3. All laws, ordinances, regulations, and by-laws shall be passed by an affirmative vote of a majority of the city council, and be signed by the mayor, and shall be published in the official paper of the city, or posted in three of the most public places in the city

All laws and ordi-
nances to be signed
by the mayor

for ten days before the same shall be in force; and within twenty days thereafter, they shall be recorded by the recorder, in books to be provided for that purpose; but before any of the said laws, regulations or by-laws shall be recorded, the posting of the same, or the publication thereof, as aforesaid respectively, shall be proved by the affidavit of the foreman or publisher of such newspaper, or the certificate of the recorder, of said posting, and the said affidavit or certificate shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time, manner and place of such publication and posting. No appropriation shall be made without a majority of the city council voting in favor of it; and the vote shall be taken by ayes and noes, and entered among the proceedings of the council.

SEC. 4. The powers conferred upon the city council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts, according to law. Houses or buildings of any kind, wherein more than twenty pounds of gunpowder are deposited, stored or kept at any time, gambling-houses, houses of ill-fame, disorderly taverns or beer shops, or places where spirituous, vinous, fermented, mixed or intoxicating liquors are sold, given away, or dealt in without a license required therefor, and all places in which, under license, spirituous, vinous, fermented, mixed, or intoxicating liquors are or shall be sold or dealt in, to be drank upon the premises, and all places where card-playing, or games of chance of any sort are permitted or allowed in or upon the premises, or any premises adjacent, under the control, direction or management of such licensed dealer, not, however, embracing card-playing for amusement only, in private apartments in hotels, kept for the accommodation of the traveling public, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

What to be deemed
common nuisances

SEC. 5. The city council shall examine and adjust the accounts of the treasurer, marshal, recorder, and all other officers and agents of the city, at such times as they may deem proper, and at the end of each year,

To examine accounts of city officers

and before the term for which such officers were elected or appointed has expired. And the council shall require each and every such officer and agent to exhibit his books, accounts, and vouchers for such examination and settlement, and if any such public officer or agent shall refuse to comply with the order of said council, in the discharge of their duties in pursuance of this section, the council shall declare the office of such person vacant, and may commence suit or proceedings at law against any such officer or agent, who may be found delinquent, as defaulting in his accounts, or in the discharge of his official duties. The council shall make full record of all such settlements and adjustments.

Power to make all contracts

SEC. 6. The city council shall have power to order and contract for the making, grading, repairing and cleansing of streets, alleys, public grounds, reservoirs, gutters, sewers and sidewalks within said city, and to direct and control the persons employed thereon, and all such improvements shall be superintended by a street commissioner, to be appointed by said city council, and to be removed at pleasure.

Surveying streets, lanes, etc., how paid

SEC. 7. The cost of surveying, making, grading, repairing and cleansing of streets, alleys, public grounds, reservoirs, gutters and sidewalks shall be paid out of the general funds of said city, but no such improvement shall be ordered by the common council, except by a vote of not less than two-thirds of the members present, and constituting a quorum at any stated or special meeting, such vote to embrace a majority of all the members elect.

Estimate of improvements—how made

SEC. 8. That hereafter the amount of public improvements in said city, specified in sections six and seven of this act, and payable out of the general funds of said city, shall not exceed, in the cost thereof, in any one year, three mills in the dollar on the taxable property in said city, according to its assessed value, taken from the assessment of the preceding year, the same to be levied and collected as other taxes for general purposes are now levied and collected.

CHAPTER V.

SECTION 1. The city council shall have power to

lay out public squares, grounds, streets, lanes, alleys, and to widen and enlarge the same as follows: Whenever twenty or more freeholders, residing in said city, by petition, represent to the city council that it is necessary to take certain lands within the city, for the purpose of laying out public grounds, squares, streets or alleys, or the enlarging or widening of the same; the courses, distances, metes and bounds of the land proposed to be taken, together with the names and residences of the owners of such premises, if known to the petitioners, to be set forth in the petition, the city council shall thereupon cause notice of such application to be given to the occupant or occupants of such lands, if there be any, and if such lands or any portion of them shall not be in the actual occupancy of any one, then the city council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in the official paper, for three weeks successively, once at least in each week, and the publisher of such paper, or his foreman, shall make affidavit of such publication, and deposit the same with the city recorder.

Power to lay out public squares, grounds, etc.—when

SEC. 2. Such notice shall state that on a certain day, therein named, not less than six days from the day of the service of such notice, or the expiration of such publication, as the case may be, the city council shall appoint three commissioners to review said premises, and determine whether it is necessary to take the same for the purposes specified in said petition. And at the time specified, the said city council shall proceed and appoint three reputable freeholders, residents of this city, but not interested in the result of said petition, and shall enter an order in their proceedings, requesting the said commissioners, within thirty days, to view said premises, to be specified in said order, and to make return to the city council whether, in their judgment, it is necessary to take said premises for the public use, for the purposes specified in the petition.

When property may be taken for public use

SEC. 3. The recorder shall, within three days, notify the said commissioners of their appointment, embracing therein a copy of such order, and if any of the said commissioners shall be disqualified from acting, or shall at any time refuse to act, the city council shall

Recorder to notify commissioners

appoint others in their places, whom the recorder shall likewise notify, and a memorandum of such substitution shall be endorsed on the notice.

Duty of commis-
sioners

SEC. 4. The said commissioners at such time as they may agree upon, within thirty days of the time of their appointment, shall proceed to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of their number, and either of the commissioners shall be authorized to administer the necessary oaths to witnesses.

Commissioners to
report to city coun-
cil—what to con-
tain

SEC. 5. After viewing the premises, and hearing such testimony as may be offered, the commissioners shall make a report of their proceedings to the city council, which shall be signed by them respectively, and which shall state, whether in their judgment, it is necessary to take the premises in question for the public use, which said notice, report and testimony, shall be returned to the city council within thirty days.

Commissioners to
determine amount
of damages

SEC. 6. Should the commissioners report that it is necessary to take such premises for the public use, the city council shall enter an order among their proceedings confirming said report, and directing the said commissioners, within twenty days thereafter, to again view said premises, for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what lands or premises will be benefitted by such taking, and to assess such damages and benefits, and to return the same to the city council within the time limited.

Further duties of
commissioners

SEC. 7. Said commissioners, within the time limited, shall again examine and view the premises proposed to be taken, and all such other premises as will, in their judgment, be injured or benefitted thereby. They shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the commissioners; they shall proceed to make their assessment and determine and appraise to the owner, or other parties having an interest in the premises, the value of the premises proposed to be taken, and the injury arising to them respectively, in consequence of the taking thereof, after

making due allowance for any benefit that such owner or owners may respectively derive from the taking of such property for the public use. Such injury, after making such allowance, shall be awarded to such persons respectively, as damages.

SEC. 8. If the damage to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the commissioners shall strike a balance, and carry the difference forward to another column, so that the assessment shall show what amount is to be received or paid by such owner or owners or persons interested, respectively, and the difference only, shall in any case be collected of them or be payable to them.

Damages and benefits how equalized

SEC. 9. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment, mortgage or lien, or if there be any estate in it less than an estate in fee, the injury done to such person or interest, respectively, may be awarded to them by the commissioner, less the benefit resulting to them, respectively, from the proposed appropriation to the public use.

Damages may be awarded by the commissioners

SEC. 10. Having ascertained the damages and expenses of the proposed improvement as aforesaid, the said commissioners shall thereupon apportion and assess the same, together with the costs of the proceeding, upon the real estate by them deemed benefitted, in proportion to the benefits resulting thereto from the proposed improvement, as nearly as may be, and shall describe the real estate upon which this assessment may be made. The award of said commissioners shall be signed by them, together with the testimony taken, and returned to the city council within the time limited in the order of appointment. Should they fail so to do, they shall receive no compensation for their services, and the city council shall appoint new commissioners, unless further time is granted to the said first appointed commissioners, which further time the council may by order grant.

When new commissioners may be appointed

SEC. 11. The said assessment shall be inserted in the next annual tax roll, and be collected in the same manner as other taxes upon real property.

Assessments how collected

SEC. 12. The land required to be taken for the

When land not to be taken

purpose mentioned in this chapter, shall not be taken till the damages awarded to the owner thereof, for the taking of the same, shall be paid or tendered to the owner or his agent, or deposited to his use with the city treasurer, in case said owner or his agent are unknown; and the said lands and premises so taken and appropriated, shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys, or public grounds, heretofore opened or laid out, and the damages so assessed shall be paid or tendered, or so deposited within eight months of the confirmation of such assessment and report, and if not so paid, tendered, or deposited, all the proceedings in such case shall be void, the benefits so assessed shall be a lien upon the premises so assessed, from the confirmation of such report.

When contracts between landlord and tenant may be null and void

SEC. 13. Where the whole of any tract of land or any other premises, under lease or other contract, shall be taken by virtue of this act, all the covenants, contracts and engagements between landlord and tenant, or any other contracting parties touching the same or any part thereof, upon the confirmation of the commissioners' report, shall respectively cease and be absolutely null, and the parties discharged therefrom.

When to remain in part valid:

SEC. 14. When only a part of a tract of land or other premises, so under lease or other contract, shall be taken as aforesaid, all the covenants, contracts and agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged, as to the part thereof so taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for or in respect to the same, shall be so apportioned that the part thereof, justly and equitably payable for such residue, and no more, shall be paid for or in respect to the same.

Duty of Judge of Probate

SEC. 15. When any known owner of any lands or premises, affected by any proceedings under this act, shall be an infant, or labor under any other legal disability, the judge of probate of Goodhue county shall upon the application of the person laboring under such disability, his next friend, or the city council, appoint a guardian for such person, upon whom shall be served all notices required by this act.

SEC. 16. The said commissioners, before entering upon the discharge of their duties, shall severally take an oath that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and honestly discharge the trust reposed in them.

Commissioners
not to be interested

SEC. 17. Any person whose property is taken, or against whom an assessment is made, may, within ten days after the return of said commissioners to the city council, appeal from such determination of damages or benefits to the district court of Goodhue county, where such appeal shall be tried as in ordinary cases of appeal in said court. The city council shall have the same right to appeal.

May have right to
appeal

SEC. 18. Whenever any public ground, street, or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the city council shall cause an accurate survey and profile thereof to be made, and filed in the office of the city surveyor.

File of survey and
profile of public
square, etc.

CHAPTER VI.

SECTION 1. All property, real and personal, within the city, except such as may be exempt by the laws of the State, or by ordinance of the city, shall be subject to taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner provided for by the general laws of this State, for the assessment of taxes for town purposes; but such assessment shall not exceed eight mills on the dollar, of the real valuation, and qualified voters shall be liable to a poll tax, not exceeding one dollar, in any one year, to be levied by the city council.

Taxation of prop-
erty for support of
city government

SEC. 2. All funds in the city treasury shall be under the control of the city council, and all orders drawn upon the treasurer shall specify the purpose for which they are drawn, and shall be payable out of any funds in the city treasury belonging to the city, and all such orders shall be received in payment of any tax or assessment levied by authority of this city. All orders shall be payable to the order of the person in whose favor they may be drawn, and shall be transferrable by

Funds to be under
control of city
council

endorsement. No money shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

SEC. 3. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city.

ons to be
brought in corpo-
rate name of the,
city

All prosecutions for any violations of this act, or any of the by-laws, ordinances, or regulations of said city, shall be commenced by warrant, upon complaint being made as required by law in criminal cases before justices of the peace; *Provided*, That no warrant shall be necessary in any case of the arrest of any person or persons, while in the act of violating any law of the State of Minnesota, or ordinance of the city of Red Wing; but in such cases a complaint shall be made, which the justice shall reduce to writing, and the party be required to plead thereto, as to a warrant in other cases; and the person or persons so arrested, may be proceeded against in the same manner as if the arrest had been made by warrant. All process issued by the justice of the peace of said city, for the violation of any ordinance or by-law of said city, shall be directed to the marshal or any constable of said city. In all cases of the imposition of any fine or penalty by the justice of the peace of said city, for the violation of any ordinance or by-law of said city, or appellate court, the offender shall be forthwith committed to the city prison of said city, or if there be no such prison, to the common jail of Goodhue county, and be there imprisoned for a term not exceeding six months, in the discretion of the justice, or such appellate court, unless the said fine or penalty be sooner paid, and from the time of the arrest of any person for any offence whatever, until the time of his trial, he may be imprisoned in said city prison, or in case there be none, in the common jail of Goodhue county.

SEC. 4. No judgment recovered in favor of the city, should be remitted or discharged, except by vote of four-fifths of the city council.

When judgments
may be remitted

SEC. 5. No person shall be an incompetent judge, justice, witness, or juror, or commissioner, by reason of his being an inhabitant of the city, in any action or

Qualifications of
judge, justice, etc.

proceeding in which the city shall be a party in interest.

SEC. 6. The following property, now, or at any time hereafter, belonging to said city, or any of the wards thereof, shall be exempt from levy and sale under and by virtue of any execution: All engine houses, hook and ladder houses, together with the ground and lots on which they are situated, and all fire-engines, carriages, hooks, ladders, buckets, hose, or any other fire apparatus, used by any company erected or authorized by the common council of said city; all market houses and the furniture thereof; city hall and furniture of common council rooms; pounds, and the lots on which they are situated; and all school houses and the furniture thereof; *Provided*, That nothing herein contained shall exempt any of the aforesaid real and personal property from levy or sale by virtue of any execution issued on judgments rendered in favor of any person or persons, who may have furnished or sold any of such fire apparatus to or on the credit of the city, nor shall any real or personal property of any of the inhabitants of said city, or of any individual or corporation, be levied on or sold, by virtue of any execution issued to satisfy or collect any debt, judgment, obligation, or contract of said city.

Property exempt
from levy and sale

SEC. 7. All work for the city shall be let by contract to the lowest responsible bidder therefor, and the city council may require of the bidder a bond, with sureties, for the faithful performance of the contract; due notice should be given of the time and place of letting such contract, except in cases where the value of the work to be done shall not exceed twenty-five dollars.

Contracts—how
made

SEC. 8. If any election by the people for city officers, for any cause, shall not be held in the manner and at the time herein prescribed, it shall not be considered a reason for arresting, suspending, and absolving said corporation; but such election may be held upon any subsequent day; and if any of the duties enjoined by this act, as the ordinances, by-laws, rules or regulations of the city, to be done by any officer at any specified time, be not done or performed at that time, the city council may appoint another time at which the said acts may be done and performed.

What shall not be
a reason for sus-
pending said cor-
poration

May lease and hold property—for what purpose

SEC. 9. The city may lease, purchase and hold real or personal estate, sufficient for the convenience of the inhabitants and the due administration of the government of the city, and may sell and convey the same at pleasure, and the same shall be free from taxation.

No law considered repealing the same

SEC. 10. No general laws of this State, contravening the provisions of this act, shall be considered as repealing, amending, or modifying the same, unless such purpose be expressly set forth in such law.

All ordinances to remain in force

SEC. 11. All ordinances and regulations now in force under the act or acts to which this is an amendment, shall remain in force until modified or repealed by the city council, and the present city and town officers shall hold their respective offices, till the first annual election under this act, and until their successors are elected and qualified.

Appeals may be taken

SEC. 12. Appeals and certioraris shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinances, rules, by-laws or regulations, passed in pursuance thereof, the same as in other cases arising under the general laws of this State; *Provided*, That in all cases of prosecution for a breach or violation of any ordinance, by-law or regulation of said city or its charter, or for any assault, battery breach of the peace, or affray, not indictable, committed within the city limits, no appeal shall be allowed where the judgment or fine imposed, shall not exceed twenty dollars, exclusive of costs.

Repeal of inconsistent acts

SEC. 13. All acts and parts of acts relative to the incorporation of the city of Red Wing, are hereby repealed; but the repeal of said act, shall not affect any act done, or right accrued or established, or any proceeding, suit or prosecution had or commenced previous to the time when such repeal shall take effect, but every such act, right, or proceeding shall be as valid and effectual as if said acts had remained in force.

No township organization to exist

SEC. 14. No township organization shall exist within the limits of said city of Red Wing, as hereby incorporated, and all powers and duties conferred by the laws of this State, upon town supervisors, are hereby conferred upon the common council of said city, and all powers and duties conferred upon town clerks, shall be performed by the city recorder; *Pro-*

vided, That said city council shall exercise only the power conferred upon town supervisors, by the general laws of this State, in altering, laying out, opening, building and repairing roads and bridges within the corporate limits of said city, through or upon any land not platted and recorded as town or city lots, until the same shall be so platted and recorded. *And provided further*, That said city council may use the general funds of said city for the laying out, opening, building and repairing any such roads and bridges.

SEC. 15. All property, effects, moneys and credits, of the town of Red Wing, shall be transferred to and become the property of the city of Red Wing; and said city of Red Wing shall become responsible for all debts, claims, liabilities or demands, now existing against said town of Red Wing; and all that part of the said town of Red Wing not embraced in the limits of the said city of Red Wing, under this act, shall be attached to, and hereby is made a part of the town of Burnside.

What to become property of said city

SEC. 16. This act is hereby declared to be a public act, and may be read in evidence in all courts of law in this State, without proof.

Declared to be a public act

SEC. 17. This act shall not be altered or amended unless such alteration or amendment shall have been adopted by a majority of the legal voters, at a regularly called meeting of the citizens, and certified by the mayor and recorder of said city.

When act may be altered or amended

SEC. 18. The recorder of the said city of Red Wing, is hereby authorized and empowered to appoint a deputy at any time, and shall be responsible for all acts performed by him, while in the discharge of his duties as such deputy.

Recorder may appoint a deputy

SEC. 19. This act shall take effect and be in force from and after its passage.

Approved March 3, 1864.